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LETTERS

IN FAVOUR OF

A REPEAL OF THE LAW WHICH PROHIBITS MARRIAGE WITH THE SISTER OF A DECEASED WIFE;

BY

THE REV. W. W. CHAMPNEYS,
RECTOR OF WHITECHAPEL;

THE REV. THOS. DALE,
VICAR OF ST. PANCRAS, AND CANON RESIDENTIARY OF ST. PAUL'S;

THE REV. J. H. GURNEY,
RECTOR OF ST. MARY'S, MARYLEBONE;

THE HON. AND REV. H. MONTAGU VILLIERS,
RECTOR OF ST. GEORGE'S, BLOOMSBURY, AND CANON RESIDENTIARY OF ST. PAUL'S.

AND

THE REV. WALTER FARQUHAR HOOK, D.D.
VICAR OF LEEDS.

TO WHICH IS ADDED THE FORM OF A

PETITION SIGNED BY MANY HUNDREDS OF THE PAROCHIAL CLERGY.

Seeleys.
FLEET STREET, AND HANOVER STREET,
LONDON: MDCCCXLIX.

1849

Price Sixpence.

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Marriage with a deceased wife'

It is proper to state, that the following Letters were written in answer to enquiries from different friends, and not volunteered; the writers feeling, with many others who share their opinions, a reluctance to agitate, or to obtrude their sentiments upon the Public, though, at the request of those friends, they have from a sense of duty, since consented to have their sentiments made known.

I.

Rectory, Whitechapel, Feb. 15, 1849.

My dear Sir,

In the midst of my always pressing work in this immense Parish, I can only give a hasty and brief view of my opinion on the subject of your Letter, viz. "the Marriage with a deceased Wife's Sister:" still my view is, to me, clear and decided.

1. I assume that, in point of nearness, the relationship of a Brother to his deceased brother's Widow, is the same as that of a man to his deceased Wife's Sister. Two Brothers are successively married to the same Woman, in the one case; and the same man to two Sisters in succession, in the second.

2. I assume that God would not *command* anything

immoral. "Because of the hardness of men's hearts," He did, indeed, *allow* divorce, then, for reasons, which are not allowed under the better dispensation of the Gospel; but he never *commanded*, even under the peculiar Law of the Jews, anything immoral. Yet he *did* command (for the keeping inheritances in families, and so preserving the genealogy correct) the man to marry his Brother's Widow: that is, one Woman to marry two Brothers. This proves to me that there is no such *relationship* in his view between persons so connected as to forbid marriage.

3. There being thus no *moral* evil in such a connection as the Marriage of a man with his deceased Wife's Sister, we see obviously that it would be very EXPEDIENT: second Marriages are seldom happy to the children of the former Marriage. A second Wife cannot feel as a Mother. She may love her husband, *as* a husband, and will look with *some* regard on that husband's children, but can seldom either feel or act in a motherly way towards them. There is not only *no* regard felt towards the first wife, but a jealous feeling springs up when she is alluded to, in many minds. This, however, must necessarily be less likely to arise when the second Wife is sister of the former, than in any other almost conceivable instance. Who can look at the motherless children so tenderly as the sister of their departed mother? Who so likely to bear with their little waywardness; because she loves them as the sister of that one who is no more, and who saw those children when they were under that mother's care?

It appears to me, therefore, that first, as Scripture

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shows that there is nothing immoral in such a connection—and secondly, as it is obvious that much evil would be prevented—many poor children saved from misery and ruin by having that person over them who, in a majority of instances, would be the next best substitute for a mother, my own mind is led to believe that the Law of man ought to tally, in this respect, with the Law of God.

I believe that many an unhappy Marriage would be prevented, by such Marriages being allowed. We should have "injusta" less frequently coupled with "Noverca," and both among rich and poor much sin (for it *is* sin to break even Man's Law as long as it *is* Man's Law) kept away.

Believe me, my dear Sir,
Yours most truly,
W. Weldon Champneys.

J. Labouchere, Esq.

II.

Russell Square, March 6, 1849.

My dear Sir,

The Letter which I wrote to you was so entirely of a private and personal character, that I did not weigh my words as I should have done, had I contemplated the use of them for such a purpose as you mention.

As however I would never utter any opinion pri-

vately which I should be ashamed to avow publicly, I have no objection, if you think it worth while, to express my deliberate judgment on this important question.

So far as my parochial experience extends, the prohibition of Marriage with a deceased Wife's Sister, operates far more to the promotion than to the prevention of crime. Among the lower classes, cohabitation without marriage is almost invariably the result, while the few conscientious persons who are deterred by the law from forming such a connection, are precisely those to whom it would be a benefit.

Were the prohibitions founded on Scripture, we ought at whatever sacrifice to obey God rather than man; but I cannot see the expediency of a law, which, having no such sanction, is observed only by the scrupulous, evaded by the wealthy, and defied or disregarded by the poor.

I am, my dear Sir, faithfully yours,

THOMAS DALE.

III.

63, *Gloucester Place, March* 7, 1849.

MY DEAR ——,

I certainly have a strong opinion against the Act which forbids marriage with the Sister of a deceased Wife, and have no objection to put my sentiments on paper for you to make any use of, that you think

proper. Looking at the policy of such connexions, it has always struck me, that there is one decisive argument against legislation on the subject, and that is *this*:—from the habits of society, and the domestic arrangements of different classes of the community, the rich and the poor, in this matter, do not stand at all on the same ground.

It is an assumed thing, almost universally, that it is a positive good for the Sister-in-law to have the charge of the children, to be domesticated with them, to be all to them that any mother's substitute can be. Now, in our rank of life, I believe *that good* is more likely to be obtained by having the law as it is. Many a woman of marriageable age would feel more free to go and live with the widower, if the thought of a future union was an excluded thing from both minds. There is so much of sensitiveness in a great many minds upon points of that sort, that the step, which would seem the most natural in the world, might be declined, or taken with hesitation and reluctance, provided an opening were given for ill-natured comment, or a want of entire propriety were hinted by prudish friends. Whether more marriages would take place under an altered state of law, I cannot tell; but, I cannot help thinking, the opportunities for them would be lessened—that is, that the Widower and the Sister-in-law would less frequently have one common home.

On the other hand, looking at the poor, and the size of their houses, generally, it is quite clear that if it be desirable for the aunt to be the *trainer*, then it

is equally clear that she should be the *stepmother*. A common dwelling in their case implies and necessitates cohabitation. Very often two chambers are not to be had; and, at any rate, there is such a want of privacy, and so much of compulsory contiguity, that delicacy will be shocked and outraged while the two persons live apart, or a closer union will take place, with the permission of the law, or in defiance of it.

Now, as it is quite clear the Legislature cannot make one law for the rich and another for the poor, and the policy of such a measure is essentially different with reference to the two classes, it seems to me almost a self-evident proposition, that it must just let the matter alone. It does not concern Parliament, nor fall within their province. Many persons have a strong feeling against such unions, but they have no right to impose a yoke upon their neighbours; and the attempt to do so, it seems, is resented as a wrong, which men's natural sense of justice revolts against. In our rank of life, I think it an invasion of our liberty which we have a fair right to complain of: you and I can settle such matters for ourselves, at least as well as Lord Lyndhurst, and they who voted with him very blindly, after little thought, and no enquiry.

But the grievance to you and me is nothing as compared to the poor man's grievance. We can get nurses and governesses for our children. A kind sister-in-law perhaps will come and live with us, and we can give her such accommodation as she wants. *He* has not room in his house for any female but a wife: none but an aunt can be expected to take

charge of the children without pay, and the law says peremptorily and arbitrarily that the aunt must not be the wife.

I have not read the evidence, but understand the number of cases is very great among the labouring classes, in which the brother and sister-in-law are living together in unhallowed union. I dare say this was not intended when they began to live together, generally;—but, as might be expected in their houses, the barriers of decorum have been broken down, and the ready plea, probably has been found for both consciences, that the law which *makes* the sin, must *answer for* the sin. I must say, I think it has a great deal to answer for already, and the sooner it takes to repentance and confession the better. *This hardship on the poor*, I think, wants pressing particularly. Almost every body to whom you talk on the subject, in society, has in his mind the case which may be his own. The habits and feelings of gentlemen and ladies are the things referred to. The number of persons probably affected in a whole generation among the upper classes, is comparatively inconsiderable—the number of persons, I mean, who *would* marry a Sister-in-law, but for a prohibiting Law.

But lower down, it affects tens of thousands of Widowers. It is almost always desirable, that the man left with a young family, *there*, should marry again. Very often he must have a female in the house before his wife is buried, to take charge of the youngest children. Upon whom can he reckon often but a Sister-in-law, in an hour like that? What so

fit as that she should stay on with him, if there be no impediment? When she has got almost a Mother's place in the affections of the children, it seems cruel to turn her away.—Yet she cannot stay with comfort or propriety, when things have resumed their usual course, except as the second wife. "That she must not be," says the Law; "*she* must turn out, and a chance stranger must take her place."

If I were a Demagogue, wanting to rouse the passions of the working classes against the injustice of the rich man's legislation, I would not wish for a better topic. The Law may *look* equal, but the inequality from total difference of circumstances is very great indeed. If the matter were broached in an assembly of working men, of perfectly sober habits, and well-regulated minds, wishing as anxiously as Lords and Commons to do right before God and man, I have no notion that one hand in fifty would be held up for the Law as it is.

I have no wish to have my name figure in Parliament,—not because I dread publicity when good is to be done by it, but because I am quite too obscure a person for my name to give weight to any thing I say, before such an Assembly. If I can help the cause at all, it must be by my remarks having something of truth and reason in them.

I am,

Yours, very truly,

J. H. Gurney.

IV.

Bloomsbury, March 9, 1849.

Dear Sir,

You ask me my opinion upon the very important subject which is now agitating so many minds;—Marriage with a deceased Wife's Sister.

To what extent this exists in my Parish, it is impossible to say. We do not know the parties whom we marry. The poor population is always more or less migratory, which renders this knowledge in a London Parish impossible. In my Pastoral visitation, I seldom if ever inquire who is the Wife before marriage; and as you will readily believe, the fact of having married two Sisters is never unnecessarily forced upon my attention. I have however several times been asked to solemnize such marriages, which, of course, under the present state of the Law, I have been reluctantly obliged to decline.

I cannot perceive that it is forbidden in the word of God;—on the contrary, the limitation of Levit. xviii. 18, seems to be a sanctioning to marrying a Sister of a Wife when *deceased*.

The question appears to me, to be one purely of *expediency*. The alteration of the law will not probably diminish the *happiness* of social intercourse in the upper classes, but it may make a change in those Brotherly and Sisterly familiarities which have

hitherto existed, and existed with advantage. But I conceive the great gain will really be to the poorer classes, who, I am convinced, with very few exceptions, never trouble themselves about the *legality* of the question at all. If they are aware of the *illegality*, they escape from the difficulty by dispensing with the Marriage Ceremony; and if they are ignorant of the illegality, they violate the Law, and the object of the Legislature is equally defeated. In short, I am decidedly of opinion, that the Repeal of the present Law, while it may partially, and very partially affect the habits of Society among the upper classes, will remove a barrier to marriage which now exists, but which I do not believe God ever set up. It will prevent much immorality among the Poor—relieve many a burdened conscience, and tend to the increase of happiness amongst large numbers of our fellow-countrymen.

I am, my dear Sir,

Very faithfully yours,

H. Montagu Villiers.

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V.

[Since the preceding Letters were published, the following has been received from Dr. Hook, of Leeds. Like them it was the result of an application from a private friend, and not volunteered by Dr. Hook—nor originally intended for publication—like them it shows the opinion of one who has lived and laboured indefatigably among the poor.]

Vicarage, Leeds, April 2, 1849.

Sir,

In answer to your Letter, I will place my view of the subject upon which you ask my opinion,—the proposed Repeal of the Law, which prohibits Marriage with the Sister of a deceased Wife, in as clear a light as I can.

The Church of England in the table of kindred and affinity, (if that be part of the Prayer Book)* prohibits Marriage between a man and the Sister of his deceased Wife.

If a bill were brought into Parliament to compel me to solemnize such marriages, I should resist it as an act of tyranny. But Mr. Wortley does not propose to compel the Church to solemnize such Marriages. Therefore, as a Churchman, I have no ground for complaint against his measure.

He proposes that, regarding Marriage as a civil

* It is proper to add, that Dr. Hook's doubt, whether Parker's Table be a part of the Prayer Book is well founded—it is not to be found in the Standard Copies, though of late years it has been bound up with both Bible and Prayer Book.

contract, Marriage contracted by a man with his deceased Wife's Sister, before the Registrar, shall be legal.*

As a citizen, I give him my support, and wish him success.

People in general, do not consider such Marriages improper. They cannot be proved to be improper by Scripture. The question is, therefore one of expediency, and my experience as a Parochial minister induces me to think the measure expedient.

In the upper classes of Society, a Sister in Law may live with a widower and no scandal arise. He can secure in her a kind friend for his children.

This is scarcely possible with respect to the Poor, as any one who is acquainted with their habitations and habits, will at once perceive.

Yet when a poor man has lost his Wife; whatever may be his feelings, he is almost compelled to replace her as soon as he can. To him the Wife is not only the companion, but the nurse of his children, and the servant-of-all-work in the house. If a Step-Mother is thus necessary, where are the children so likely to find one who will regard them with affection, and treat them with kindness, as in the Sister of their Mother, whom from early years they have known and loved.

On these grounds, if ever a Convocation be called and I be elected one of the Proctors, I shall move

* Mr. Wortley's bill does not make Marriage, strictly speaking, a civil contract—its object is to allow (not compel) every Clergyman to celebrate the Marriage in question if they think right.

for an alteration, in this regard, in the table of kindred and affinity. Until this be the case, I shall be glad to see such Marriages legalized by the Civil Rite,

I have the honor to be, Sir,
Your obedient servant,
W F. Hook.

In addition to the above testimony may be quoted the following Petition which was signed by upwards of seven hundred Clergymen.

The humble Petition of the undersigned Clergymen of the Church of England,

Sheweth,

That, in the opinion of your petitioners, the existing law which prohibits marriages between a widower and his deceased wife's sister is an inexpedient law, and ought to be repealed for the following reasons :—

1st. That there is no Divine command to be found in the Scriptures, either directly or indirectly, prohibiting such marriages.

2dly. That there is no consanguinity or kindred between the parties which makes such marriages undesirable in a physical point of view, or which disqualifies the parties according to any of the received notions of mankind upon such subjects.

3rdly. That it seems to your petitioners natural for a widower, who finds in his wife's sister congenial habits, feelings, and temper, to regard her as the most fitting substitute for the wife whom he has lost.

4thly. That, in many instances, no person is so well qualified to discharge the duties of the deceased mother towards her surviving children as the sister, who is already endeared to them by the ties of affection and kindred, who, in most instances, has acquired, as

their aunt, a certain degree of influence over them, and who can, therefore, exercise the necessary control of a step-mother, without incurring the odium, or exciting the jealousy, which her authority, however leniently exercised by a stranger, usually creates.

5thly. That among the poorer classes a prohibition so much at variance with natural impulses has a direct immoral tendency, by inducing some parties to cohabit together without marriage, and leaving it in the power of others, who go through the ceremony of marriage, to deny its validity when it suits their purpose.

Your petitioners, therefore, humbly pray that your Lordships will take the subject of the existing law relating to marriage into your early consideration, with a view to such an alteration thereof as to your Lordships shall seem meet.

And your petitioners, &c.

Seeley, Printer.

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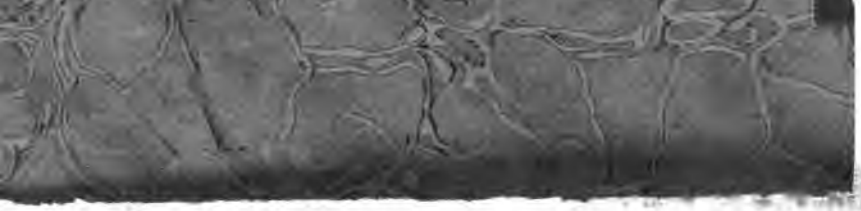

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